

Notice of Allowability

Application No.

10/541,615

Examiner

L. E. Crane

Applicant(s)

IMAMURA ET AL.

Art Unit

1623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to preliminary amendments filed July 7, 2005 and August 10, 2006.
2. ☒ The allowed claim(s) is/are 13-15.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

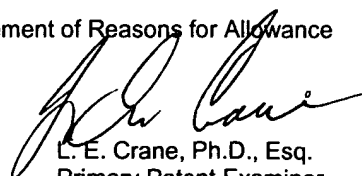
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☒ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 9/15/05;8/10,23/06
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 11172006.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


L. E. Crane, Ph.D., Esq.
Primary Patent Examiner
Technology Center 1600

The oath or declaration is defective. A new oath or declaration in compliance with 37 C.F.R. §1.67(a) identifying this application by its Serial Number and filing date is required. See MPEP 602.01 and 602.02. The oath or declaration is defective because:

It does not identify the PCT application relied on for priority. Applicant is referred to the first paragraph at page 1 of the form wherein at least one "fill in the blank" opportunity was missed.

An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 C.F.R. §1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the Issue Fee.

The following new claim was added:

-- **15.** A pharmaceutical composition comprising a compound of either claim **13** or claim **14** in combination with a pharmaceutically acceptable carrier. --.

Authorization for this Examiner's Amendment was given in a telephone interview with Susan J. Mack on November 17, 2006.

The following is an Examiner's Comment and an Examiner's Statement of Reasons for Allowance:

Examiner's Comment

Applicant's submission of a petition requesting accelerated examination filed August 23, 2006 has been received and made of record. The specification has been amended as per the first preliminary amendment filed July 7, 2005 to include a disclosure of related cases relied upon for priority and to correct minor grammatical errors. A certified English translation of the Japanese-language priority document has been received and made of record. Claims **1-12** have been cancelled and new claims **13-14** have been added as per the second preliminary amendment filed August 10, 2006. Three Information Disclosure Statements (3 IDSs) filed September 15, 2005, August 10, 2006 and August 23, 2006 together with copies of all cited non-US patent documents have been received, reviewed, and made of record. Copies of the

cited US patent documents have also been obtained and reviewed.

Examiner's Statement of Reasons for Allowance

Following a structure search using STN and the CAPLUS database, following review of a more broadly drafted structure search submitted by applicant, and following review of all of the prior art submitted, examiner has concluded that all of the cited art found by examiner's search had been previously identified by applicant's search and had also been cited by applicant on a PTO-1449. Since none of the prior art presently of record includes any disclosures applicable in either an anticipation or obviousness-type art rejection of claims 13-14 and because the claims are free of other errors rejectable under other parts of the statute, examiner has further concluded that claims 13-14 are allowable as submitted.

Newly added claim 15 supra is well supported by cancelled claim 8 and by the examples in the disclosure, particularly those examples directed to the testing of compounds to determine potential applicability in the treatment of diabetes at pages 79-85 of the disclosure and subsequent generic disclosures of alternative pharmaceutical compositions. And claim 15 is also free of the prior art because it depends entirely on claims 13-14 for the identity of its active ingredient.

Therefore, examiner has concluded that all of the instant claims presently in the case are properly found allowable without further prosecution. And in view of the previous cancellation of claims 1-12 no additional fees are required.

Any comments considered necessary by applicant must be submitted no later than the payment of the Issue Fee and, to avoid processing delays, should preferably **accompany** the Issue Fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Papers related to this application may be submitted to Group 1600 via facsimile transmission (FAX). The transmission of such papers must conform with the notice published in the Official Gazette (1096 OG 30, November 15, 1989). The telephone number to FAX (unofficially) directly to Examiner's computer is 571-273-0651. The telephone number for sending an Official FAX to the PTO is 571-273-8300.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner L. E. Crane whose telephone number is **571-272-0651**. The examiner can normally be reached between 9:30 AM and 5:00 PM, Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. S. Anna Jiang, can be reached at **571-272-0627**.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group 1600 receptionist whose telephone number is **571-272-1600**.

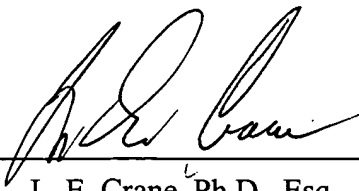
All Post-Allowance Correspondence concerning this application must be mailed to:

BOX ISSUE FEE
COMMISSIONER FOR PATENTS
WASHINGTON, DC 20231

OR you can FAX them to the Office of Patent Publications at 571-273-8300, in order to expedite the handling of such correspondence as amendments under 37 C.F.R. §1.312; Information Disclosure Statements (IDS's), and formal drawings. Sending Post-Allowance papers to Technology Center 1600 will only cause delays in matching papers with the case.

For information concerning status of correspondence sent after receipt of the Notice of Allowance, please contact the Correspondence Branch at **571-272-4200**. The Notice of Allowance also has an insert containing contact information for other items, including Issue Fees, receipt of formal drawings, and the status of the application.

LECrane:lec
11/17/2006



L. E. Crane, Ph.D., Esq.
Primary Patent Examiner
Technology Center 1600